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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H 2007 313

KAMTRA SCOTT
300 Lloyd Street
Bakersfield CA 93307

A C C U S A T I O N

Respiratory Care Practitioner license no. 20518

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about December 15, 1998, the Respiratory Care Board issued Respiratory Care Practitioner license number 20518 to Kamtra Scott (Respondent). The Respiratory Care Practitioner license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2010, unless renewed.

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1 DISCIPLINARY HISTORY

2 3. Effective October 20, 2003, the Board issued a Public Reprimand pursuant
3 to a Stipulated Settlement and Disciplinary Order in Case No. R-1805, based on Respondent's
4 violations of Business and Professions code sections 3750(d), 3752, 490 and California Code of
5 Regulations 1399.370(b) [conviction of a substantially-related crime] and 3750(j) [dishonest act]
6 in that she failed to report her September 14, 2001 conviction of Penal Code section 476(a)
7 [insufficient funds/checks] on her license renewal application.

8 JURISDICTION

9 4. This Accusation is brought before the Respiratory Care Board (Board),
10 Department of Consumer Affairs, under the authority of the following laws. All section
11 references are to the Business and Professions Code unless otherwise indicated.

12 5. Section 3710 of the Code states: "The Respiratory Care Board of
13 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
14 8.3, the Respiratory Care Practice Act]."

15 6. Section 3718 of the Code states: "The board shall issue, deny, suspend,
16 and revoke licenses to practice respiratory care as provided in this chapter."

17 7. Section 492 of the Code states:

18 "Notwithstanding any other provision of law, successful completion of any
19 diversion program under the Penal Code, or successful completion of an alcohol and drug
20 problem assessment program under Article 5 (commencing with section 23249.50) of
21 Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established
22 under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any
23 initiative act referred to in that division, from taking disciplinary action against a licensee
24 or from denying a license for professional misconduct, notwithstanding that evidence of
25 that misconduct may be recorded in a record pertaining to an arrest.

26 "This section shall not be construed to apply to any drug diversion program
27 operated by any agency established under Division 2 (commencing with Section 500) of
28 this code, or any initiative act referred to in that division."

1 8. Section 3750 of the Code states:

2 “The board may order the denial, suspension or revocation of, or the imposition of
3 probationary conditions upon, a license issued under this chapter, for any of the following
4 causes:

5 “(d) Conviction of a crime that substantially relates to the qualifications,
6 functions, or duties of a respiratory care practitioner. The record of conviction or a
7 certified copy thereof shall be conclusive evidence of the conviction.

8 “(g) Conviction of a violation of any of the provisions of this chapter or of any
9 provision of Division 2 (commencing with Section 500), or violating, or attempting to
10 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
11 violate any provision or term of this chapter or of any provision of Division 2
12 (commencing with Section 500).

13 9. Section 3752 of the Code states:

14 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
15 made to a charge of any offense which substantially relates to the qualifications,
16 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
17 the meaning of this article. The board shall order the license suspended or revoked, or
18 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
19 conviction has been affirmed on appeal or when an order granting probation is made
20 suspending the imposition of sentence, irrespective of a subsequent order under Section
21 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
22 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
23 accusation, information, or indictment.”

24 10. Section 3752.5 of the Code states:

25 “For purposes of Division 1.5 (commencing with Section 475), and this chapter
26 [the Respiratory Care Practice Act], a crime involving bodily injury or attempted bodily
27 injury shall be considered a crime substantially related to the qualifications, functions, or
28 duties of a respiratory care practitioner.”

11. California Code of Regulations (CCR), title 16, section 1399.370, states:

“For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

“(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Act.”

COST RECOVERY

12. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

13. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

14. Section 3753.1 of the Code states:

"(a) An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation. "

FIRST CAUSE FOR DISCIPLINE

(Substantially-related Conviction)

15. Respondent is subject to disciplinary action under code sections 3750(d), 3750(g), 3752 , 3752.5 and CCR 1399.370(a) in that she was convicted of a violation of Penal Code section 245(a)(1) [assault with a deadly weapon], which is substantially related to the

1 practice of respiratory care. The circumstances are as follows:

2 16. On or about June 6, 2007, at 1:15 a.m., Officer Jeremy Piper of the
3 Bakersfield Police Department investigated a report of a domestic disturbance at Respondent's
4 residence. Respondent and K.B. are the parents of three children, and K.B. does not live with
5 Respondent and the children. Respondent and K.B. were arguing in the kitchen of Respondent's
6 house. K.B. grabbed Respondent's purse in an attempt to get his car keys, and both he and
7 Respondent pulled on the purse, causing the strap to break and the contents to spill out onto the
8 floor. K.B. grabbed his keys from the ground, and began to walk out the door. Respondent
9 continued yelling at him, and she stabbed K.B. in his back with a four inch kitchen knife. K.B.
10 grabbed the knife from Respondent and walked outside the residence with the knife in his hand.
11 The Bakersfield police arrived at this time, and ordered K.B. to put the knife down.

12 17. Officer Piper observed a puncture wound in K.B.'s back, about two inches
13 above his buttocks. K.B. was transported by ambulance to Kern Medical Center for medical
14 treatment.

15 18. Respondent was interviewed, and waived her Miranda rights. She claimed
16 that K.B. slapped her at least one time across the left side of her face, causing minor pain to her
17 face. She stated that K.B. has physically abused her in the past, and that she stabbed him in the
18 back in self-defense. Officer Piper did not see any visible marks or injuries on Respondent's
19 face. He determined that she was the primary aggressor, and arrested and booked Respondent for
20 violating Penal Code sections 245 [assault with a deadly weapon] and 273.5 [domestic violence.]

21 19. On or about June 13, 2007, a felony criminal complaint titled *People of the*
22 *State of California vs. Kamtra Tamika Scott*, case no. BF119516A was filed in Superior Court,
23 Kern County. On June 28, 2007, a felony arraignment was held, and the Court issued a
24 protective order, barring Respondent from contacting K.B., and contact was allowed only for the
25 safe exchange of children for visitation.

26 20. On or about September 10, 2007, an Information was filed in case no.
27 BF119516A. Count 1 charged Respondent with a felony violation of Penal Code section
28 245(A)(1), assault with a deadly weapon; to wit, a knife. It was further alleged that this offense

1 is a serious felony within the meaning of Penal Code section 1192.7(c). Count 2 alleged a felony
2 violation of Penal Code section 273.5(A), inflict corporal injury. It was further alleged that
3 Respondent used a deadly weapon; to wit, a knife, which was not an element of the offense,
4 within the meaning of Penal Code section 12022(B)(1). Both counts included enhancements that
5 Respondent committed the offense under circumstances involving domestic violence, within the
6 meaning of Penal Code section 12022.7(e).

7 21. On or about February 25, 2008, Respondent entered a plea of nolo
8 contendere to Count 1, Penal Code section 245(A)(1), assault with a deadly weapon; to wit, a
9 knife, a felony. The plea was entered on the condition that she admit to Count 1 as a strike,
10 perform 200 hours of community service and complete a 52 week anger management class
11 before the sentencing date. Respondent was found guilty by the Court. Upon stipulation of
12 counsel, the Court found a factual basis for the plea. Count 2 was dismissed by the District
13 Attorney in furtherance of justice, and upon condition that the plea remains in effect.
14 Respondent was referred to the probation department for a presentence investigation and report
15 to be held on March 16, 2009.

16 22. On or about April 2, 2009, Respondent appeared before Judge Jerold L.
17 Turner for sentencing. The probation officer's report was received and considered. Respondent
18 provided proof of counseling and completion of community service hours. The Court ordered
19 Count 1, Penal Code section 245(A)(1), assault with a deadly weapon, reduced to a
20 misdemeanor, pursuant to Penal Code section 17. Respondent was placed on three years court
21 probation, ordered to serve one day in custody with credit for time served of one day. She was
22 ordered to stay away from the victim, not to possess firearms, and pay fines.

23 23. Therefore, Respondent's license is subject to discipline in that she was
24 convicted of a misdemeanor violation of Penal Code 245(a)(1) [assault with a deadly weapon]
25 in violation of Business and Professions code sections 3750(d) and (g), 3752, 3752.5 and CCR,
26 title 16, section 1399.370(a).

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking or suspending Respiratory Care Practitioner license Number
5 20518, issued to Kamtra Scott;

6 2. Ordering Kamtra Scott to pay the Respiratory Care Board the costs of the
7 investigation and enforcement of this case, and if placed on probation, the costs of probation
8 monitoring;

9 3. Taking such other and further action as deemed necessary and proper.
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11 DATED: May 7, 2009
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14 Original signed by Colleen Whitestine for:
15 STEPHANIE NUNEZ
16 Executive Officer
17 Respiratory Care Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant
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